

MEMORANDUM

July 31, 2025

To: House Committee on Natural Resources
Attention: Haig Kadian, Clerk

From: D. Andrew Austin, Analyst in Economic Policy, aaustin@crs.loc.gov, 7-6552

Subject: Responses to Written Questions for the Hearing “*Puerto Rico’s Fiscal Recovery Under PROMESA and the Road Ahead*”

This memorandum addresses questions submitted for the record following the July 16, 2025, hearing entitled “Puerto Rico’s Fiscal Recovery Under PROMESA and the Road Ahead.”

1. Based on the objectives Congress had when it passed PROMESA, has the Financial Oversight and Management Board (FOMB) been a success? Please elaborate.

The markup memorandum prepared by the House Committee on Natural Resources in May 2016, for a bill that eventually became PROMESA (P.L. 114-187), stated:

Puerto Rico’s situation underscores the necessity for Congressional action, and highlights the purpose of the Committee on Natural Resources’ (Committee) efforts to address the crisis. Over the past few months, the Committee has held four hearings and a markup on legislation to address the situation in Puerto Rico. The hearings focused on: the need for energy and infrastructure development; the outline for an oversight board; why Puerto Rico needs access to debt restructuring; ...¹

The Committee’s then-Ranking Member Grijalva commented:

The bill would allow restructuring of all outstanding debt without favoring any particular creditor; require transparent audits, combined with annual fiscal plans and budgets; and temporarily pause the ongoing flurry of litigation to allow the oversight board to begin its work and create a space for voluntary negotiations.

As I have said throughout this process, this is not a bill that I or Democrats would have written. The oversight board is too powerful and is yet another infringement of the sovereignty of the people of Puerto Rico, and they have a right to find it offensive.²

The aims of enacting PROMESA and establishing an oversight board might be summarized as advancing energy sector reforms, promoting infrastructure development, standing up an oversight board with powers

¹ House Committee on Natural Resources, Markup Memorandum H.R. 5278, May 23, 2016.

² Raúl Grijalva, House debate on H.R. 5278, *Congressional Record*, June 9, 2016, p. H3601.

to shape fiscal plans and budgets as well as to modernize fiscal controls, and providing Puerto Rico with access to orderly debt restructuring processes. The Financial Oversight and Management Board (FOMB or Oversight Board) was intended to play a central role in moving Puerto Rico towards those goals.

The Oversight Board's record might be described as mixed.³ The Oversight Board has led the restructuring of the bulk of Puerto Rico's debts and pension systems. It has insisted on improvements in budgetary and financial controls in the island's public sector, although those efforts remain in progress. On the other hand, operating costs of the Oversight Board have been well above initial estimates⁴ and some contend that it has not enhanced the island's economic development.⁵ Some argue that the Oversight Board has imposed a string of austerity measures that constrained provision of essential public services.⁶ The Oversight Board, however, views such measures as essential to budgetary discipline.⁷

The work of the Oversight Board and of the island's government was greatly complicated by the two 2017 hurricanes, the 2020 earthquakes in the island's southwest, the COVID-19 pandemic, and the 2022 Hurricane Fiona.

The bulk of Puerto Rico's public debts have been restructured, although the debts of the Puerto Rico Electric Power Authority (PREPA) remain unresolved in a lengthy Title III case. The Oversight Board commissioned an investigative report on the issuance of Puerto Rico's public debts,⁸ although some claimed some key questions were left unaddressed.⁹

The Oversight Board had no direct control over Puerto Rico's energy policy, although it did help shape PREPA's fiscal plans and budgets. The board did attempt to take direct control of PREPA after the 2017 hurricanes, but was rebuffed by the Federal District Court handling Title III cases.¹⁰ At present, Puerto Rico's electric power system is fragile and continues to experience frequent power outages, with multiple

³ An assessment from a former chair of the Oversight Board is David A. Skeel, "Reflections on Two Years of P.R.O.M.E.S.A.," *Revista Jurídica Universidad de Puerto Rico*, vol. 87, pp 862-884, 2018 and University of Pennsylvania, Institute for Law & Economics Research Paper no. 18-18, <https://ssrn.com/abstract=3216119>.

⁴ "Lo que Cuesta la Junta de Control Fiscal: Ya se han Pagado Más de \$2,000 millones" [What the Fiscal Control Board has Cost: More than \$2 billion has Already been Spent], *Sin Comillas*, February 12, 2025, <https://sincomillas.com/lo-que-cuesta-la-junta-de-control-fiscal-ya-se-han-pagado-mas-de-2000-millones/>.

⁵ Fabiana S. Delpin Rivera, "Puerto Rico bajo PROMESA: ¿Qué se ha Logrado Realmente? Expertos en Derecho y en Economía Dieron una Mirada a lo que han sido los Pasados Nueve Años con la Presencia de la Junta de Supervisión Fiscal [Puerto Rico Under PROMESA: What has really been Accomplished? Experts in Economics and Law Discuss What has been Done in Nine Years with the Presence of the Oversight Board], June 5, 2025, <https://www.metro.pr/noticias/2025/06/05/puerto-rico-bajo-promesa-que-se-ha-logrado-realmente/>.

⁶ Jesús Manuel Ortiz, "La Junta de Supervisión Fiscal: Una Década sin Soluciones," [The Fiscal Supervision Board: A Decade Without Solutions], June 26, 2025, <https://www.metro.pr/opinion/2025/06/26/la-junta-de-supervision-fiscal-una-decada-sin-soluciones/>.

⁷ Oversight Board, "Government Discipline Necessary for Balanced Budgets," September 4, 2024, <https://oversightboard.pr.gov/government-discipline-necessary-for-balanced-budgets/>.

⁸ Kobre & Kim LLP, *Final Investigative Report*, August 20, 2018, pp. 167-168, <https://drive.google.com/file/d/19-lauVo3w9MPS03xYVe0SWhQin-Q6FEf/view>. Also see Arthur J. González, "Oversight Board Member: Read the PR Debt Report," *Bond Buyer*, March 4, 2021.

⁹ Luis J. Valentín Ortiz, "Puerto Rico Debt Audit Drags on as Creditor Negotiations Heat Up: Almost Two Years After the Enactment of the Federal PROMESA Law and the Imposition of a Fiscal Control Board, Puerto Rico Still Lacks a Public Debt Audit that Shows, Without Doubt, How Much Debt was Legally Contracted," Center for Investigative Journalism, June 11, 2018, <http://periodismoinvestigativo.com/2018/06/puerto-rico-debt-audit-drags-on-as-creditor-negotiations-heat-up/>.

¹⁰ Daniel Bases, "U.S. Judge Denies Request for Outsider to Oversee Puerto Rico's PREPA," Reuters, November 13, 2017, <https://www.reuters.com/article/business/us-judge-denies-request-for-outsider-to-oversee-puerto-ricos-prepa-idUSKBN1DD2MQ/>.

partial and island-wide blackouts in 2025.¹¹ Allocating credit for reforms or blame for failures, however, is a complex task as many hands have had a role in shaping Puerto Rico's energy sector.

Title V of PROMESA was intended to promote economic development led by a Reconstruction Coordinator within the Oversight Board who could accelerate "critical projects." For various reasons, however, in the words of the first Reconstruction Coordinator, "the process didn't work."¹²

The certification of the FY2026 budget as balanced and compliant marks a step forward and indicates an ability of the Oversight Board, the governor, and the legislature to work together.¹³ The timely release of audited financial statements and full implementation of financial controls remain works in progress.

2. What are the main factors contributing to the delay in resolving PREPA's debt restructuring?

Several factors contributed to delays in the restructuring of PREPA's debts.

First, in 2014 PREPA had entered into the first of a series of Restructuring Support Agreements (RSAs) with fuel line lenders and certain other creditors. One condition of the RSAs was the appointment of a Chief Restructuring Officer (CRO).¹⁴ In April 2017, newly inaugurated Governor Ricardo Rosselló Nevares chose not to extend the CRO's contract, although he did extend an RSA.¹⁵ In June 2017, the Oversight Board voted to end the RSA framework and file a Title III petition to initiate a debt restructuring process for PREPA.¹⁶

Second, the disasters noted above complicated the progress of PREPA's Title III case. In particular, Hurricanes Irma and María severely damaged electrical system assets, raising new questions about how repairs to the system could be paid for given PREPA's precarious financial state.¹⁷

Third, although Congress appropriated substantial funds for disaster recovery in Puerto Rico, the disbursement of funds and project approvals were slowed by distrust between federal officials and the

¹¹ Department of Energy (DOE), PREPA 202(c) Emergency Measures Generation, Order No. 202-25-1, May 16, 2025, <https://www.energy.gov/sites/default/files/2025-05/PREPA%20202%28c%29%20Emergency%20Measures%20Generation.pdf>; DOE, PREPA 202(c) Emergency Measures Transmission, Order No. 202-25-2, May 16, 2025, <https://www.energy.gov/sites/default/files/2025-05/PREPA%20202%28c%29%20Emergency%20Measures%20Transmission.pdf>.

¹² Neil Zamot, remarks at Consultiva Internacional conference. See Oscar J. Serrano, "Zamot: 'Tengo los Documentos... No me estoy Inventando Nada': Lo que Realmente Dijo Zamot Antes de Irse," [Zamot: "I Have the Documents ... I am not Inventing Anything": What Zamot Really Said Before Leaving], *Noticel*, April 9, 2019, <https://www.noticel.com/gobierno/ahora/junta-fiscal/top-stories/20190411/zamot-tengo-los-documentos-no-me-estoy-inventando-nada/>.

¹³ Oversight Board letter to Governor Jenniffer A. González Colón and legislative leaders, June 27, 2025, https://drive.google.com/file/d/1Lyx_CyXNN37FlkKg3OjOOKoe33a03ye/view.

¹⁴ Testimony of Lisa J. Donahue, Chief Restructuring Officer, PREPA, before U.S. Congress, House Natural Resources Committee, Energy and Mineral Resources Subcommittee, *Exploring Energy Challenges and Opportunities Facing Puerto Rico*, 114th Cong., 2nd sess., January 12, 2016, http://naturalresources.house.gov/uploadedfiles/testimony_donahue.pdf.

¹⁵ See PREPA Public Disclosure, April 6, 2017, <https://emma.msrb.org/ER1046043-ER819555-ER1220619.pdf>.

¹⁶ See Skeel (2018) at p. 876. Also see *Amended and Restated PREPA Disclosure Statement*, March 28, 2025, pp. 24-25, https://drive.google.com/file/d/1ufx7OXWJZpE2ag63ewBF3_kwTdr-ZTXm/view.

¹⁷ For more details, see CRS Report R46609, *The Status of Puerto Rico's Recovery and Ongoing Challenges Following Hurricanes Irma and María: FEMA, SBA, and HUD Assistance*, coordinated by Elizabeth M. Webster. Also see U.S. Congress, House Committee on Transportation and Infrastructure, Subcommittee on Economic Development, Public Buildings, and Emergency Management, *Recovery Update: Status of FEMA Recovery Efforts in Puerto Rico and U.S. Virgin Islands Five Years After Hurricanes Irma & María*, 117th Cong., 2nd sess., September 15, 2022, <https://www.congress.gov/event/117th-congress/house-event/115108>.

Puerto Rican government.¹⁸ Such delays complicated assessments of PREPA's anticipated revenues and investments.

Fourth, Governor Rosselló and the legislature, with support of the Oversight Board, enacted a measure (Act 120-2018) to privatize and separate PREPA's grid and power generation assets. That measure advanced one of the goals set forth in the 2014 ALIVIO energy reform (Act 57-2014), to separate power generation from distribution and transmission. At present, the privatization process is not going smoothly.¹⁹ Uncertainty about the structure of the island's electrical power system translates into uncertainty about PREPA's future finances.

Fifth, the complexity of PREPA's Title III case has affected its progress. In March 2022, the PROMESA Title III judge Laura Taylor Swain rejected a creditor coalition's request to impose deadlines on the negotiation process.²⁰ In June 2022, the court issued a "path forward order," setting guidelines for further negotiations.²¹ The Oversight Board, after being challenged to explain why the stays on litigation set by PROMESA should not be lifted, contended that a plan confirmed through the Title III process was the only way to obtain reductions in debt sufficient to allow PREPA to regain market access and to deliver electric power on a reliable basis.²² At the end of September 2022, Judge Swain issued an order directing the Oversight Board to submit a confirmable plan by December 1, 2022, and set other filing deadlines.²³ In December 2022, the Oversight Board proposed a settlement via a plan of adjustment, which was followed by several revisions.²⁴ The Board estimates its recent offers would provide \$2.6 billion to creditors.²⁵ Bondholders, however, challenged the board's assessment of terms of the underlying bond agreement. In November, the U.S. Court of Appeals for the First Circuit in a revised decision largely sided with creditors' claims.²⁶ Since then, the district court handling the case repeatedly urged the board and creditors to continue negotiations.²⁷

¹⁸ See Skeel (2018) at pp. 878-880.

¹⁹ On July 22, 2025, Governor Jenniffer González Colón took steps to cancel the electrical grid operation and management contract with the LUMA consortium. See "LUMA Energy da la Bienvenida al Proceso Tras Carta de Josué Colón: 'Hemos Recibido la Notificación de la Autoridad para las Alianzas Publico-Privadas (AAPP) y Reconocemos este Paso como el Inicio Formal de un Proceso para Atender Asuntos que Tienen que Resolverse', Expresó el Presidente de LUMA, Juan Saca en la Misiva." [LUMA Energy Welcomes the Process through Josué Colón's Letter: "We Have Received the Notification from the Puerto Rico Public-Private Partnerships Authority and Recognize this Step as the Formal Start of a Process to Address Matters than Must be Resolved," Stated LUMA President Juan Saca in a Message], *Noticel*, July 22, 2025, <https://www.noticel.com/gobierno/ahora/20250722/luma-energy-da-la-bienvenida-al-proceso-tras-carta-de-josue-colon/>.

²⁰ In re Fin. Oversight & Mgmt. Bd. for P.R. as representative of P.R. Elec. Power Auth. (hereinafter "In re PREPA"), *Order Denying Urgent Motion of the Ad Hoc Group of PREPA Bondholders*, March 8, 2022, <https://cases.ra.kroll.com/puertorico/Home-DownloadPDF?id1=MTA4NjQ1Ng==&id2=-1>.

²¹ In re PREPA, *Path Forward Order*, June 29, 2022, <https://cases.ra.kroll.com/puertorico/Home-DownloadPDF?id1=MTEwMDA0NQ==&id2=-1>.

²² In re PREPA, *Oversight Board Corrected Reply*, September 20, 2022, <https://cases.ra.kroll.com/puertorico/Home-DownloadPDF?id1=MTEwOTA5Ng==&id2=-1>.

²³ In re PREPA, *Order Establishing Schedule to Continue Negotiations*, September 29, 2022, <https://cases.ra.kroll.com/puertorico/Home-DownloadPDF?id1=MTEwOTY1MA==&id2=-1>.

²⁴ For links to PREPA Plans of Adjustment and related court documents, see <https://oversightboard.pr.gov/prepa-plan-of-adjustment/#documents>.

²⁵ Oversight Board, "Oversight Board Files Plan of Adjustment to Significantly Reduce PREPA's Debt," press release, December 16, 2022, <https://drive.google.com/file/d/15svM10SPfz4ngqdkrE23VLku79W7x2fn/view>.

²⁶ In re PREPA, 104 F.4th 367 (1st Cir. June 12, 2024), withdrawn and replaced, 121 F.4th 280 (1st Cir. Nov. 13, 2024). For summary, see petition of FAFAA, U.S. Supreme Court, March 21, 2025, http://www.supremecourt.gov/DocketPDF/24/24A915/352756/20250321172515989_AAFAF%20-%20Lien%20Challenge%20Application%20for%20Cert%20Petition%20Extension_pdfa.pdf.

²⁷ In re PREPA, Mediation Team's 17th Notice and Report, December 9, 2024, <https://document.epiq11.com/document/getdocumentbycode?docId=4413655&projectCode=PR1&source=DM>.

a. What risks does Puerto Rico face if an affordable deal is not reached?

The Oversight Board has warned that insufficient reduction of Puerto Rico's public debts would hinder its ability to attract investment in the future. A former Oversight Board chair argued:²⁸

While future investors are indeed likely to consider the magnitude of the restructuring, they also will consider the health of Puerto Rico's balance sheet. If Puerto Rico does not restructure its debt sufficiently—and as a result is not fully on its way to fiscal balance—future investors will be reluctant to lend to Puerto Rico. New creditors and investors look at the balance sheet and want to see low debt. They do not give brownie points for having high debt because old debt has not been restructured. Indeed, one of the major reasons Puerto Rico has not had market access for the past four years is that investors concluded its existing debt was unsustainable.

A higher debt load from the PREPA Title III case would have to be financed through higher rates or higher taxes or lower outlays for investments or other initiatives. Those effects could reduce living standards of households and may induce further outmigration from the island. Higher electricity rates or taxes could also affect Puerto Rico's ability to attract or maintain major employers.

3. Puerto Rico had a long history of structural deficits before PROMESA. What specific budget reforms has the FOMB suggested to prevent future deficits?

The certification process for fiscal plans and budgets is a central tool of the Oversight Board. PROMESA Section 201(b)(2) requires that fiscal plans cover at least five years. PROMESA Section 209 requires the use of modified accrual accounting standards to generate financial statements as a prerequisite to the termination of the Oversight Board. The windup of the Government Development Bank, which was used to transfer budgetary resources among components of Puerto Rico's public sector, could be viewed as a structural budgetary reform.

The Oversight Board notes initiatives to modernize and strengthen financial controls and reporting, although it also notes that significant problems remain.²⁹

a. How can these reforms be made permanent before the FOMB sunsets?

Presumably setting up accounting and financial control systems needed to satisfy the Section 209 modified accrual accounting standard would provide a basis for greater capacity to exercise fiscal controls.

As noted in my written testimony, renewed participation in the U.S. Census Bureau's Census of Governments program would generate fiscal data in a form comparable with other governments. Also as noted there, support for the Puerto Rico Institute of Statistics could enhance accessibility and transparency of public operations and finances.

Ultimately, maintaining fiscal discipline would be a responsibility of Puerto Rican voters and their elected representatives. Former Oversight Board Chair Skeel notes that in several other jurisdictions that have had oversight or control boards, many voters have responded to calls to avoid a return of such boards.³⁰

²⁸ See Skeel (2018) at p. 883.

²⁹ Oversight Board, *Commonwealth Financial Plan Year-End Report FY2024*, December 2024, pp. 13-14, https://drive.google.com/file/d/1AMezzdB9-fYbGlgqeaTHFJxVHMS_Ud1X/view.

³⁰ Skeel (2018).

4. According to recent media and watchdog reports, the FOMB has spent more than \$2 billion on legal fees and consulting services since 2016. These costs are funded by local taxpayers and do not include full-time staff salaries. Given the scale of the FOMB's work, does CRS believe these costs are beyond the norm?

CRS is aware of media reports and litigation regarding legal fees and consulting services engaged by the Oversight Board. In a March 2018 hearing, a representative of the U.S. Trustee stated that:

[o]ur independent review identified essentially the same major deficiencies that the fee examiner has highlighted in his report, particularly, overstaffing, duplication and vagueness. We share the fee examiner's expectation that these deficiencies will be significantly reduced in future applications.

Federal District Court Judge Laura Taylor Swain then added:

frankly, a good proportion of what I've received has been duplicative in many ways. And I've also worked in—particularly in the past, not so much today, so this is a good sign, in courtrooms packed with attorneys who have traveled to and attended proceedings in which only a handful actually argued or participated.

I am keenly aware of the unprecedented practical and legal circumstances facing the highly-talented professionals who are doing essential work in these PROMESA cases. There is an extraordinary amount of work that has to be done. But the cases are really only in their infant stages, and the people of Puerto Rico simply can't afford to spend billions and billions of dollars in professional fees.³¹

Shortly after that hearing, the Oversight Board offered congressional leaders a brief justification of its expenditures on such fees.³²

a. If so, by how much?

To the extent that legal fees and costs of consultants are above a strictly necessary level, CRS is unable to estimate what costs could be considered excessive. The Government Accountability Office (GAO) or the U.S. Trustee may be better positioned to investigate that question.

5. Have the debt restructurings under PROMESA put Puerto Rico on a sustainable long-term trajectory?

Puerto Rico continues to face economic challenges that will affect the tax base available to support its public sector. As noted in my statement, federal funding enacted during the COVID-19 pandemic has supported the island's education and health programs, which in turn has helped the local economy. Those funds, however, are starting to run out. Federal disaster response funds, also as noted in my statement, have been slow to disburse. A fully refurbished electric power system could support economic growth, although that transition process has been rocky.³³ Tariffs on steel and aluminum and proposed tariffs on copper could affect costs of rebuilding infrastructure and, in particular, the electric power generation and electrical transmission systems.

³¹ Omnibus Hearing held March 7, 2018, Federal District Court for Puerto Rico, San Juan, <https://cases.ra.kroll.com/puertorico/Home-DownloadPDF?id1=OTA1MDE3&id2=-1>. Also see Steven Mufson, "Puerto Rico Discovers that Bankruptcy is Expensive," *Washington Post*, March 8, 2018, <https://www.washingtonpost.com/news/energy-environment/wp/2018/03/08/puerto-rico-discovers-that-bankruptcy-is-expensive/>.

³² Oversight Board, letter to congressional leaders, March 12, 2018, https://drive.google.com/file/d/17oP8ppSHFN9YbprGMkjTscVmnH_cDoo3/view.

³³ Gloria Gonzalez, "Trump, Bad Bunny and Puerto Rico's Perennially Broken Power Grid," *Politico Magazine*, March 30, 2025, <https://www.politico.com/news/magazine/2025/03/30/puerto-rico-electric-grid-blackouts-hurricanes-00257176>.

Some of the restructured bonds exchanged for old Commonwealth and COFINA debt are contingent valuation instruments. Those allow investors to share in upside gains and downside risks, which helps Puerto Rico manage its debt service obligations.

6. What challenges has Puerto Rico faced in its attempts to secure a long-term gas supply contract via a public and competitive process?

That question involves issues beyond my area of expertise. I would be pleased to refer congressional clients to colleagues who have followed that issue.